

# J. STERLING MORTON HIGH SCHOOL DISTRICT 201

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December 10, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street SW  
Washington, DC 20554  
ELECTRONICALLY FILED VIA ECFS

**Re CC Docket No. 02-6**  
**In the matter of Second Request for Review by J. Sterling Morton High School District 201 of a Decision of the Universal Service Administrator**

Dear Secretary Dortch,

With this letter J. Sterling Morton High School District 201 ("Morton HSD") appeals<sup>1</sup> a decision<sup>2</sup> by the Universal Service Fund Administrator ("USAC") under the schools and libraries universal service support mechanism ("E-Rate") to consider Form 486 as unfiled or late filed for three funding requests, and we request leave to file Form 486 for the three funding requests cited in the attachments without incurring a delay in Service Start Date. We also ask for an extension of the invoice deadline for the cited funding requests.

Morton HSD further requests that the Wireline Competition Bureau ("Bureau") exercise its best efforts to act on this appeal within the 90-day timeline specified at 47 CFR § 54.724. Morton HSD is mindful of the broad scope of responsibility shouldered by the Bureau and is very respectful of the dedicated service rendered daily by Bureau staff. However, since unfortunately it is our students who will bear the consequences of our inability to effectively plan for the operation of the school while this matter is unresolved, we would ask only that the Bureau do its best to expedite its full examination of the evidence and to render a reasoned and fair decision.

## **Background**

Morton HSD is a school district which prides itself on its student-centered instruction philosophy, based on a curriculum designed to prepare our 8,000+ students for higher education and to become productive, contributing members of society.

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<sup>1</sup> Any person aggrieved by an action taken by a division of the Universal Service Fund Administrator may seek review; see 47 CFR § 54.719(c).

<sup>2</sup> See Exhibit A, attached

In my role as Chief Financial Officer, I recently initiated a review of our district's funding sources, and the review included an examination of historical financial records. The scope of the review included funding from the Universal Service Fund Schools and Libraries program.

One of the findings of our review is that in several instances, Morton HSD successfully applied for E-Rate funding in compliance with program rules and secured funding commitments, but did not complete the process of invoicing USAC for the discount at year-end. It seems that the ultimate issues leading to this problem were staff confusion about E-Rate rules and procedures, confusion about whether discounts were already reflected in the bills from our service providers, and (due to extreme budget constraints) a level of administrative staffing which leads to a very challenging situation for the operation of our school district.

On August 27 we requested from USAC an Invoice Deadline Extension for the affected funding requests; however, USAC denied our request. (See the attached correspondence from USAC.) In the case of three funding requests – FRNs 123362, 123366, and 1378943 – USAC stated that no Form 486 had been filed for the funding requests. We understand that based on USAC rules, even if we were to file the missing forms now USAC would find that we are ineligible to invoice them for our committed but unclaimed funds.

Morton HSD sincerely regrets the failure to file the required Form 486 with USAC on a timely basis, and we respectfully request that for the benefit of our students, we be granted the opportunity to complete and file the missing forms now. We also ask that we be granted an invoice deadline extension so we can invoice USAC for the committed funds from the funding requests listed on the attached correspondence from USAC.

Although Morton HSD management does exercise its best efforts to ensure absolute compliance with all E-Rate rules and deadlines, realistically it is beyond the control of Morton HSD to totally eliminate the possibility of the isolated clerical or administrative error.

### **Analysis**

Due to factors not reasonably within its control, Morton HSD was unable to fully comply with the requirement to file Form 486 by the normal 120 day limit after the latter of the service start date and the Funding Commitment Decision Letter date for the funding requests cited in Exhibit A. To the best of our knowledge, our E-rate funding application is otherwise in full compliance with all FCC rules and USAC requirements.

In *Alaska Gateway*<sup>3</sup>, the Bureau found that where special circumstances are present and a Form 486 was not filed on a timely basis, good cause exists to grant a waiver of

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<sup>3</sup> *Alaska Gateway School District et al*, 21 FCC Rcd 10182 (DA 06-1871)

the filing deadline and direct USAC to process the applicant's Form 472 reimbursement application without a postponement of the funding start date. The Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. The Bureau has consistently applied the *Alaska Gateway* standard in subsequent orders granting waivers of the Form 486 filing deadline, including *State of Arkansas Department of Information Systems*<sup>4</sup>, *Alcona County Library*<sup>5</sup>, *Children of Peace School*<sup>6</sup>, *Academy St. Benedict – Stewart*<sup>7</sup>, *Bancroft Neurohealth*<sup>8</sup>, *Archdiocese of Chicago School*<sup>9</sup>, *Beebe Public Schools*<sup>10</sup>, and *Albertville City Schools*<sup>11</sup>.

The cited orders are consistent with *Bishop Perry*<sup>12</sup>, where the Commission found that under certain circumstances, rigid adherence to certain E-rate rules and requirements that are “procedural” in nature does not promote the goals of section 254 of the Telecommunications Act of 1996 – ensuring access to discounted telecommunications and information services to schools and libraries – and therefore does not serve the public interest.

The Bureau further noted in *Alaska Gateway* and in *Alcona County Library* that denying the petitioners’ requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. That would certainly be the case if Morton HSD were to be denied the opportunity to request reimbursement for its eligible expenses for the entirety of the funding year. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

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<sup>4</sup> *State of Arkansas Department of Information Systems et al*, 23 FCC Rcd 9373 (DA 08-1418)

<sup>5</sup> *Alcona County Library et al*, 23 FCC Rcd 15500 (DA 08-2379)

<sup>6</sup> *Children of Peace School et al*, 25 FCC Rcd 5492 (DA 10-885)

<sup>7</sup> *Academy St. Benedict – Stewart et al*, 25 FCC Rcd 17309 (DA 10-2352)

<sup>8</sup> *Bancroft Neurohealth et al*, 26 FCC Rcd 10948 (DA 11-1239)

<sup>9</sup> *Archdiocese of Chicago School* 27 FCC Rcd 200 (DA 12-28)

<sup>10</sup> *Beebe Public Schools*, 27 FCC Rcd 3930 (DA 12-569)

<sup>11</sup> *Albertville City Schools*, 27 FCC Rcd 6094 (DA 12-894)

<sup>12</sup> *Bishop Perry Middle School et al*, 21 FCC Rcd 5316 (FCC 06-54)

**Request for Relief**

For the reasons stated in this letter, Morton HSD respectfully requests that for each funding request cited in Exhibit A, the Bureau direct USAC to give us a reasonable amount of time to complete and submit the missing Form 486 filings, and direct USAC to set the Service Start Date to the first day of the funding year. We also ask that the Bureau, consistent with precedent, direct USAC to waive any of its subsequent deadlines related to the late-filed FCC Form 486<sup>13</sup>, including the deadline for invoicing USAC for reimbursement.

Finally, on behalf of our current students, Morton HSD respectfully requests that the Bureau expedite consideration of this petition. Timely action by the Bureau would support the goals of the E-Rate program, especially with respect to our current students whose educational success would be compromised by a delay in our receipt of our committed E-Rate reimbursement funds.

J. STERLING MORTON HIGH SCHOOL DISTRICT 201

Cathy L. Johnson  
Chief Financial Officer

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<sup>13</sup> E.g., see *Children of Peace School et al*, footnote 24

# EXHIBIT A

In the matter of Second Request for Review by J. Sterling Morton High School District  
201 of a Decision of the Universal Service Administrator dated December 10, 2012



Schools and Libraries Division

## Administrator's Decision on Invoice Deadline Extension Request

October 11, 2012

Cathy Johnson  
Morton High School District 201  
2423 S Austin Blvd  
Cicero, IL 60804

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Line(s) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	103717		
Funding Request Number(s):	123362, 123366		
Your Correspondence Dated:	August 27, 2012		

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your invoice deadline extension request for the invoice number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your request included more than one invoice number, please note that for each invoice for which an invoice deadline extension request was submitted, a separate letter is being sent.

Invoice Number: N/A	Line(s): N/A
Decision on Request:	<b>Denied</b>

*Explanation:* No Form 486 was entered into the SLD system for the FRN referenced on your invoice form. Program rules require that a Form 486 be submitted by the Billed Entity to indicate that services have started and that invoices can be paid. Therefore, this request is denied for lack of a Form 486.

### TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address for the person who can most readily discuss this appeal with us.

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Schools and Libraries Division - Correspondence Unit  
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685  
Visit us online at: [www.usac.org/sl](http://www.usac.org/sl)

2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - Appellant name,
  - Applicant or Service Provider name,
  - BEN and/or SPIN,
  - Form 471 and FRN,
  - Invoice number as assigned by SLD,
  - "Administrator's Decision on Invoice Deadline Extension Request" dated October 11, 2012 **AND**
  - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, send your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division – Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

While we encourage you to resolve your appeal with USAC first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Owen Bouma, Access Systems, Inc.  
Raelanda Gunn, Ameritech Advanced Data Services, Inc.

**Administrator's Decision on Invoice Deadline Extension Request**

October 11, 2012

Cathy Johnson  
Morton High School District 201  
2423 S Austin Blvd  
Cicero, IL 60804

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Line(s) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	501473		
Funding Request Number(s):	1378943		
Your Correspondence Dated:	August 27, 2012		

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Invoice Number: N/A	Line(s): N/A
Decision on Request:	<b>Denied</b>

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1. Include the name, address, telephone number, fax number, and e-mail address for the person who can most readily discuss this appeal with us.

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2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - Appellant name,
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  - BEN and/or SPIN,
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  - "Administrator's Decision on Invoice Deadline Extension Request" dated October 11, 2012 **AND**
  - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
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Schools and Libraries Division  
Universal Service Administrative Company

cc: Michael Swisher, Illinois Bell Telephone Company